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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/696,154  | 10/29/2003  | Judy-Lynne Alley     | 3961P2596           | 6586             |
| 23504   | 7590        | 08/19/2005           | EXAMINER            |                  |
| WEISS & MOY PC<br>4204 NORTH BROWN AVENUE<br>SCOTTSDALE, AZ 85251 |             |                      | HOEY, ALISSA L      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3765                |                  |

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/696,154             | ALLEY, JUDY-LYNNE   |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Alissa L. Hoey         | 3765                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 June 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3,12 and 20-22 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-11 and 13-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/20/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

***Response to Amendment***

1. This is in response to amendment received on 06/06/05. Claims 1, 4, 6, 7, 13, 15 and 16 have been amended and claims 9-22 have been newly added. The specification has also been amended. Claims 1, 2, 4-11 and 13-19 are finally rejected below.

***Election/Restrictions***

2. Newly submitted claims 20-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: they pertain to a combination of gloves and foot covering portions used together.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the terminology used in claim 19 is not supported in the originally filed disclosure.

***Affidavit/Declaration***

4. The Declaration filed on 06/06/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the US 6,766,536 (Aarons) reference.

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5. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the US 6,766,536 reference to either a constructive reduction to practice or an actual reduction to practice. The exhibits and declaration provided by the Applicant fails to prove conception prior date to 02/27/2003.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 6-11, 13, 15-18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Aarons (US 6,766,536).

In regard to claim 1, Aarons teaches a slip-resistant extremity covering (12, 14) for a person practicing yoga (figures 11-13). The extremity covering dimensioned to fit snugly around an extremity of a person and having a palmer surface (12) and a dorsal surface (14) (column 4, lines 31-41). The extremity covering being constructed of a sufficiently malleable material so as to allow an extremity a full range of movement (column 4, lines 42-45). A slip-resistant material coupled to at least one of the palmer surface (22) and the dorsal surface (22). The slip-resistant material (22) having a high

coefficient of friction while at the same time allowing the extremity a full range of movement while inside the extremity covering (column 4, lines 55-56).

In regard to claim 2, Aarons teaches the extremity covering being dimensioned to fit snugly around a hand of a person (figures 11-13).

In regard to claim 4, Aarons teaches the slip-resistant material comprising a plurality of raised surfaces having a high coefficient of friction (figure 4).

In regard to claim 6, Aarons teaches the slip-resistant material comprising an electrometric material having a high coefficient of friction (column 4, lines 55-56).

In regard to claim 7, Aarons teaches the slip-resistant material comprising a uniform surface having a height coefficient of friction (column 5, lines 22-24).

In regard to claim 8, Aarons teaches the extremity covering being comprised of a breathable cotton-lycra type fabric (column 4, lines 42-45).

In regard to claim 9, Aarons teaches the extremity covering comprising an absorbent material dimensioned to absorb perspiration (column 4, lines 42-45).

In regard to claim 10, Aarons teaches a method for practicing yoga comprising the step of providing an extremity covering dimensioned to fit snugly around an extremity of a person (column 4, lines 32-41). The extremity covering having a palmer surface (12) and a dorsal surface (14). Providing a slip-resistant material (22) coupled to at least one of the palmer surface and the dorsal surface. Inserting an extremity of a person into the extremity covering and practicing a yoga technique (column 7, lines 15-34).

In regard to claim 11, Aarons teaches the step of inserting a hand into the extremity covering and the covering being dimensioned to fit snugly around a hand of a person (figures 11-13).

In regard to claim 13, Aarons teaches the slip-resistant material comprising a plurality of raised surfaces having a high coefficient of friction (figures 3A-7).

In regard to claim 15, Aarons teaches the slip-resistant material comprising an electrometric material having a high coefficient of friction (column 4, lines 56-57).

In regard to claim 16, Aarons teaches the slip-resistant material comprising a uniform surface having a high coefficient of friction (column 5, lines 23-25).

In regard to claim 17, Aarons teaches the extremity covering being comprised of a breathable cotton-lycra type fabric (column 4, lines 42-45).

In regard to claim 18, Aarons teaches the extremity covering comprising an absorbent material dimensioned to absorb perspiration (column 4, lines 42-45).

In regard to claim 19, Aarons teaches a fabric portion having a fabric exterior surface throughout, and anti-skid portion having an anti-skid exterior surface throughout. Wherein the fabric portion includes a dorsal part and the anti-skid portion includes an outer thumb part. The outer thumb part overlies a thumb bending axis and the outer thumb part is substantially centered about the thumb bending axis.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aarons.

In regard to claim 5 and 14, Aarons fails to teach the plurality of raised surfaces being substantially dumbbell shaped. However, Aarons teaches that the raised non-slip surfaces can be any of a variety of suitable shapes.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the raised surfaces being dumbbell shaped because Applicant has not disclosed that the raised surfaces being dumbbell shaped provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicants invention to perform equally well with the raised surfaces being dumbbell, hemispherical or cylindrical in shape because as long as the raised surfaces are non-slip and provide traction to the covering the shape is not critical as supported in Applicant's specification on page 8, lines 1-6. Therefore, it would have been an obvious matter of design choice to modify Aarons to obtain the invention as specified in claims 5 and 14.

#### ***Response to Arguments***

9. Applicant's arguments filed 06/06/05 have been fully considered but they are not persuasive. Applicant's remarks have been reviewed by the Examiner and responded to below.

I). Applicant argues the rejections based upon Aarons (US 6,766,536) is not proper, since Applicant conceived the invention prior to 02/27/03.

Examiner notes the declaration and exhibits fail to prove that the Applicant conceived of the invention prior to 02/27/03.

### ***Conclusion***

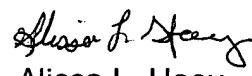
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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